



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,896	06/24/2003	Andrew Mahoney	58756 (47904)	2195
21874	7590	01/12/2007	EXAMINER	
EDWARDS & ANGELL, LLP			GART, MATTHEW S	
P.O. BOX 55874			ART UNIT	PAPER NUMBER
BOSTON, MA 02205			3625	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE		DELIVERY MODE	
3 MONTHS	01/12/2007		PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/602,896	MAHONEY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Matthew S. Gart	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on RCE filed 11/20/2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3-19 and 21-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3-19 and 21-25 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 6/24/2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/06/2006 has been entered.

### ***Prosecution History Summary***

- Claims 2 and 20 were cancelled.
- Claims 1, 3-19 and 21-25 are pending in the instant application.

***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claims 1 and 3-18 are rejected under 35 U.S.C. 101.**

Referring to claims 8-11. Claims 1 and 3-18 do not provide a practical application that produces a useful result. For an invention to be "useful" it must satisfy the utility requirement of section 101. The USPTO's official interpretation of the utility requirement provides that the utility of an invention has to be (i) specific, (ii) substantial and (iii) credible. MPEP § 2107.

The preamble of claim 1 purports utility, but the body of the claim is not commensurate with the scope of the preamble, and does not provide the active steps of "reselling vehicles" necessary to achieve the purported utility.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 1 and 3-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claim 1 discloses the limitation "...inputting vehicle information about said vehicle." It is unclear from the language of the claim where said vehicle information is being inputted. The claim limitation should be rewritten to recite, "...inputting vehicle information about said vehicle into said system server."

Claim 1 discloses the limitation "...transmitting said adjusted floor price to said auction." There is insufficient antecedent basis for this limitation in the claim. The examiner is unclear if said auction is the same as the plurality of auctions as set forth previously.

Claim 1 discloses the limitation "...transmitting said adjusted floor price to said auction." It is unclear from the language of the claim which entity is transmitting (i.e., the system server or the user) said adjusted floor price.

Claim 1 discloses the limitation "...notifying said one auction of said vehicle consignment..." It is unclear from the language of the claim which entity is notifying (i.e., the system server or the user) said one auction.

Claims 3-18 are dependent on claim 1 and acquire the deficiencies of claim 1.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 19-25 are rejected under 35 U.S.C. 102(e) as being anticipated by**

**Boyden (U.S. Patent Application Publication 2003/0036964).**

Referring to claims 19-25. Boyden discloses a system comprising a server (Fig. 1, "102"); and at least one user computer, said at least one computer providing access to said system server (Fig. 1, "106"); and at least one auction computer (Fig. 1, "104").

Boyden further discloses a third party database (Fig. 4, "442"), said server communicating with said third party database

The Examiner notes, language that does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997).

***Response to Arguments***

Applicant's arguments, filed 10/6/2006, with respect to claims 1 and 3-18 have been fully considered and are persuasive.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Kar, U.S. Patent Application Publication 2003/0083949 A1, May 1, 2003, discloses a system and method for facilitating consignment and sales of inventory or services.

"Auto dealership revs up high-end effort," Schoettle, Anthony, Indianapolis Business Journal, Volume 21, Number 44, Page 7A, January 8, 2001.

Pub-No: JP02001236448 A, Consignment Sales System Using Internet, August 31, 2001, Kojima, Kenichi

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-272-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3625

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MSG  
Primary Examiner  
January 2, 2007



MATTHEW S. GART  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 3600